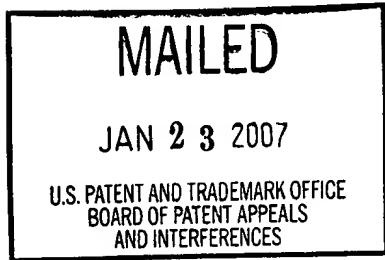


The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD J. COLLINS, R. BRUCE MONTGOMERY, JR. and ALLEN KENDLE



Appeal No. 2007-0045
Application No. 09/611,320
Technology Center 3700

Before JENNIFER D. BAHR, ROBERT E. NAPPI, and LINDA E. HORNER,
Administrative Patent Judges.

BAHR, *Administrative Patent Judge*.

DECISION ON APPEAL

Richard J. Collins et al. (appellants) appeal under 35 U.S.C. § 134 from the examiner's decision rejecting claims 24-33.¹ Claims 1-23 have been canceled.

We REVERSE.

¹ Appellants waived the hearing set for January 10, 2007. Accordingly, this decision is on brief.

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THE INVENTION

The appellants' invention relates to credit cards and other types of cards typically stored in a wallet or carrying case and includes a pattern of raised or indented dimples, or a combination of raised and indented dimples, on the front side, back side, or both sides of the card, to increase the gripability of the card (present specification, pp. 1 and 4). Claim 24, the only independent claim pending in this application, reads as follows:

24. A credit-card-sized card comprising: a first face, a second face, and a tread comprising a plurality of craters disposed on one of said first and second faces, each of said plurality of craters comprising: a lip and a center, and wherein the lip of each crater is raised slightly above said one face, and the center of each crater is indented slightly into said one face.

THE EVIDENCE

The examiner relies upon the following as evidence of unpatentability:

| | | |
|---------|----------------|---------------|
| McNeely | US 4,443,027 | Apr. 17, 1984 |
| Preddey | WO 93/11510 A1 | Jun. 10, 1993 |

THE REJECTIONS

The appellants seek review of the examiner's rejection of claims 24, 25 and 27 under 35 U.S.C. § 102(b) as being anticipated by Preddey and rejections under 35 U.S.C. § 103(a) of claims 26 and 29-33 as being unpatentable over Preddey and of claim 28 as being unpatentable over Preddey in view of McNeely.

The examiner reasons in support of the rejections in the examiner's answer (mailed January 30, 2004). The appellants offer their opposing views in the appellants' brief (filed September 30, 2003) and reply brief (filed March 15, 2004).

OPINION

The issue in dispute in this appeal is whether Preddey's coded pattern of projections and/or recesses extending out of the plane of the card and substantially parallel to the normal direction of insertion of the card (p. 1; Figs. 1A, 1B) meets the limitation in appellants' claim 24 of a plurality of "craters," each crater comprising "a lip and a center, and wherein the lip of each crater is raised slightly above said one face, and the center of each crater is indented slightly into said one face." The examiner (answer, p. 4) appears to rely on feature 14 (Figs. 1A, 1B) of Preddey's card, which is described as "involv[ing] a peak and notch in each direction" (p. 2) to meet this crater limitation. The appellants, on the other hand, argue that

claim 24 does not require simply any structure that has a raised and indented portion, but rather a "crater" with a "lip" and a "center." The plain claim language and the common understanding of the term "crater" make clear that claim 24 requires a structure wherein an indented portion is surrounded by a "lip" portion, that is, a structure resembling a crater. This understanding of the term "crater" is further supported by the specification of the patent application, which states: "In yet another alternative embodiment..., the dimples are created in such a manner as to create individual craters in which the lip of the crater is raised slightly above the surface of the card,

while the center of the crater is slightly below the surface of the card." See Exhibit A at Page 9 and FIGs. 4A-C, 5D. The [Preddey] reference does not disclose any "crater" structure, but simply a card wherein a lengthwise ridge has both a projected portion and a recessed portion.

Brief, p. 6.

While claims in a patent application are to be given their broadest reasonable interpretation consistent with the specification during prosecution of a patent application (*see, for example, In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)), terms in a claim should be construed as those skilled in the art would construe them (*see Specialty Composites v. Cabot Corp.*, 845 F.2d 981, 986, 6 USPQ2d 1601, 1604 (Fed. Cir. 1988) and *In re Johnson*, 558 F.2d 1008, 1016, 194 USPQ 187, 194 (CCPA 1977)). Further, as pointed out by our reviewing court in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315, 75 USPQ2d 1321, 1327 (Fed. Cir. 2005), the claims, of course, do not stand alone but, rather, are part of a fully integrated written instrument consisting principally of a specification that concludes with the claims. For that reason, claims must be read in view of the specification, of which they are a part. "[T]he specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term." *Id.*

As discussed above, the appellants urge the crater limitation of claim 24 at issue requires "a structure wherein an indented portion is surrounded by a 'lip' portion, that is, a structure resembling a crater." This interpretation accords with

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the ordinary and customary definition of the term “crater” as “a bowl-shaped cavity” (*Webster's New World Dictionary, Second College Edition* (Simon & Schuster, Inc. 1984)) and is wholly supported by and consistent with the description of the “crater” embodiment of the dimple (Fig. 5D) and the intended function of the tread of dimples to facilitate gripping of the card as set forth in appellants’ specification. In particular, appellants’ Figs. 2 and 4A through 4C depict the dimples as small round dots, with the purpose of these dimples being “to increase the gripability of the card” (specification, p. 4).

Therefore, consistent with the appellants’ underlying disclosure, we interpret the limitation “each of said plurality of craters comprising: a lip and a center, and wherein the lip of each crater is raised slightly above said one face, and the center of each crater is indented slightly into said one face” in claim 24 as requiring a bowl-shaped cavity comprising a lip raised slightly above one face of the card surrounding a center indented slightly into said one face. The projections and/or recesses, including feature 14, of Preddey extend substantially parallel to the normal direction of insertion of the card (p. 1) and thus do not satisfy this limitation. Further, given the intended purpose of Preddey’s projections and/or recesses as coding for access cards, and not as means to increase gripability of the card, one of ordinary skill in the art would not have found suggestion to modify Preddey’s projections and/or recesses to make them bowl-shaped with a protruding lip surrounding a center indented slightly into said one face as called for in appellants’ independent claim 24 and claims 25-33 depending therefrom.

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We thus cannot sustain the examiner's rejections of claims 24, 25 and 27 as being anticipated by Preddey and claims 26 and 29-33 as being unpatentable over Preddey. The examiner's application of McNeely in combination with Preddey in rejecting claim 28 provides no cure for the deficiency of Preddey discussed above. We therefore cannot sustain this rejection of claim 28.

ADDITIONAL CONSIDERATION

In the event that the examiner has not already done so, the examiner should consider researching the field of embossment of credit cards and other similar cards to determine whether any of the known embossment processes for forming closed letters and numbers, such as "O," "a," and "Q," for example, would result in the subject matter recited in appellants' claim 24 and any of the dependent claims.

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SUMMARY

The decision of the examiner to reject claims 24-33 is REVERSED.

REVERSED



JENNIFER D. BAHR
Administrative Patent Judge

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) BOARD OF PATENT
) APPEALS
) AND
) INTERFERENCES


ROBERT E. NAPPI
Administrative Patent Judge

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Linda E. Horner
LINDA E. HORNER
Administrative Patent Judge

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